

S.B.CIVIL WRIT PETITION NO.3891/2006

Dr.Vipin Kumar Varshney & Anr.
v.
State of Rajasthan & Ors.

Date of Order :: 11th December, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Mahesh Bora, for the petitioners.
Mr. Shyam Ladreacha, Additional Government Advocate.

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Counsel for the petitioners at the threshold states that he wants to withdraw the writ petition with regard to petitioner No.1 with liberty to file fresh. Accordingly this petition for writ is dismissed qua the petitioner No.1 with liberty to file fresh.

The grievance of the petitioner No.2 is that though she is an Assistant Professor in Department of Orthodontia but has been posted at S.N.Medical College, Jodhpur as Assistant Professor against the vacancy available in general Dentistry. It is contended that in the entire State the Department of Orthodontia is available only at Dental College, Jaipur, where the post of Assistant Professor in Department of Orthodontia is occupied by Dr. Shri Balvinder Singh Thakkar who was appointed as Assistant Professor in General Dentistry under an order dated 6/8.9.2005 purely on urgent

temporary basis. According to the petitioner No.2 she being a part of the cadre of Assistant Professor in Orthodontia should have been posted on the regular post available in the department itself.

A reply to the writ petition has been filed on behalf of the respondents admitting therein that appointment was given to the petitioner No.2 as Assistant Professor (Orthodontia) and she has been posted at S.N.Medical College, Jodhpur against a post of Assistant Professor in General Dentistry. It is also accepted by the respondents that Shri Balvinder Singh Thakkar who was appointed as Assistant Professor (General Dentistry) on urgent temporary basis is working in Department of Orthodontia at Dental College, Jaipur.

With this factual background this petition for writ is heard for final disposal with consent of the counsel for the parties.

It is not in dispute that the petitioner No.2 is a part of the cadre of Assistant Professor in the subject of Orthodontia but she has been posted at S.N.Medical College, Jodhpur, where the department of Orthodontia is not available and the respondents are utilising services of the petitioner No.2 in general Dentistry.

The petitioner No.2 being a regular selected Assistant Professor in Orthodontia is certainly required to be posted as Assistant Professor (Orthodontia) wherever the vacancy available in State of Rajasthan. The respondents have given preference to Dr. Balvinder Singh Thakkar who is admittedly appointed on urgent temporary basis as Assistant Professor (General Dentistry), therefore, by keeping the petitioner No.2 as Assistant Professor (General Dentistry) and utilising the services of above named Balvinder Singh Thakkar as Assistant Professor in Orthodontia is arbitrary. The petitioner No.2 being an Assistant Professor in Orthodontia is having a better preferential right to be posted as Assistant Professor (Orthodontia) at Dental College, Jaipur.

Accordingly, this petition for writ is allowed. The respondents are directed to post the petitioner No.2 as Assistant Professor (Orthodontia) at Dental College, Jaipur.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.